

REMARKS

Turning first to the informalities noted in the Office Action, claim 11 stands rejected under 35 U.S.C. 112, second paragraph first because there is a lack of antecedent basis for the term “nominal value” and second because the phrase “or other representative” makes the claim unclear. Both of these defects have been overcome by the amendments to claim 11.

Claims 1-11 also stand rejected under 35 U.S.C. 101 because they are directed to a non-statutory subject matter. This rejection is hereby overcome because claim 1 had been amended to recite a “computer implemented” method as suggested by the Examiner and also to recite that the various steps are carried out by a computer based futures exchange system. The dependent claims have also been amended in a similar manner where appropriate.

As set forth in claim 1, the present invention is directed to a computer based method of trading in the value of property which includes the steps of:

(A) designating at least one geographical area;

(B) collecting data relating at least to prices and numbers of properties which are located in a designated geographical area and which either are sold during a given period or for which the registration of the transfer pursuant to a sale takes place during a given time period;

(C) generating an index from the collected data which is based at least on the selling price per property sold or transferred during the given time period;

(D) producing futures contracts for properties, in the said designated geographical area, which is based at least on the index; and

The index (M_i) is unsuitable for supporting a property futures market, based as it is on sales volumes and not sales values which is a necessary basis in creating a fungible property futures market. Although M_i may be amplified by a ratio of the average price of property over two periods of time (paragraph 7, lines 25-35), the amplified index is still firmly sales volume based and not based at least on the selling price.

Arguing that the index (M_i) may be based at least on the selling price, by the introduction of the average property price ratio, is an argument contrary to the objective of Rothstein's teachings i.e. to create a tool to assess property market risk. Thus, step (C) is missing both from Miller and from Rothstein. As a result, the combination of Miller with Rothstein cannot establish a prima facie case of obviousness under 35 U.S.C. 103, since the combination fails to teach all of the elements of claim 1.

In view of the foregoing, Applicant respectfully submits that the rejection of claim 1, as well as the rejections of all of the dependent claims, are overcome. Accordingly, favorable reconsideration is respectfully requested.

Respectfully submitted,

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